IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 3646 (MS) OF 2001

Gurmeet Singh …….Petitioner.

Versus

Kela Kher Kishan Seva Samiti and others. …….Respondents.

HON'BLE RAJESH TANDON J.

Heard Sri M.C. Pande, learned counsel for the petitioner and Sri M.C. Kandpal, learned counsel for the respondents.

By the present Writ Petition, the petitioner has prayed for referring the dispute to the Registrar, Cooperative Societies under Section 17 of the U.P. Cooperative Societies Act.

Briefly stated, the petitioner has filed a Suit for mandatory injunction. The suit was dismissed by the Trial Court on 27th March, 1995. Issue Nos.2,4 and 5 were framed showing as to whether the suit is maintainable or not. Learned Civil Judge has recorded a finding that the Suit was barred by Section 111 and Section 70 of the U.P. Cooperative Societies Act.

The petitioner has filed the present Writ Petition for referring the matter to the Registrar, Cooperative Societies under Section70 of the U.P. Cooperative Societies Act.

Both the parties have prayed that since the matter has already been settled in the Civil Court, the Registrar Cooperative Societies has jurisdiction to decide the dispute.

In view of the aforesaid facts and circumstances, dispute with regard to payment of a sum of Rs. 24,076.40 is directed to be referred to the Society under Section 70 of the U.P. Cooperative Societies Act. The Registrar shall decide the dispute within a period of three months from the date of the filing of the certified copy of the order.

Subject to the aforesaid observations, Writ Petition is dismissed on the ground of alternative remedy. Mean while till the Registrar decides the dispute, both the parties shall maintain status quo.

Respondent no. 1 shall not adopt coercive measures during the period of three months.

However, it will be open for the Registrar to fix the instalments for the payment of the amount in case he comes to the conclusion that certain amount is due from the petitioner.

(RAJESH TANDON J.)

04.10.2004
P.S. Rathour